

6-11-04

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail

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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

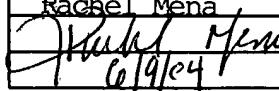
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 HELLER EHRLMAN WHITE & MC AULIFFE
 2500 MIDDLEFIELD ROAD, MENLO PARK, CA 94025-3506
 SAN DIEGO 92129-1246
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I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO, on the date indicated below.

Rachel Mena (Depositor's name)

 6/9/04 (Signature)
 (Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/585,911	06/02/2000	Terrence R. Green	25658-0003	6827

TITLE OF INVENTION: METHODS AND DEVICES FOR PROVIDING ANTI-INFECTIVE ACTIVITY TO A MEDICAL DEVICE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$665	\$0	\$665	06/09/2004

EXAMINER	ART UNIT	CLASS-SUBCLASS
THORNTON, KRISANNE MARIE	1744	422-037000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
 "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 Heller Ehrman White & McAuliffe LLP
 2 _____
 3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Oxibio, Inc.

Portland, Oregon

Please check the appropriate assignee category or categories (will not be printed on the patent): individual corporation or other private group entity government

4a. The following fee(s) are enclosed:

4b. Payment of Fee(s):

Issue Fee
 Publication Fee
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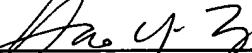
A check in the amount of the fee(s) is enclosed.
 Payment by credit card. Form PTO-2038 is attached.
 The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number 08-1641 (enclose an extra copy of this form).

Director for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

Hao Y. Tung, Reg. No. 43,209

(Authorized Signature)

(Date)



NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

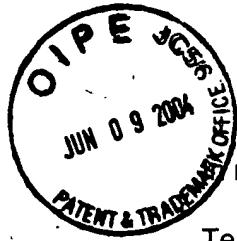
This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Alexandria, Virginia 22313-1450.

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 02 FC:8001 30.00 DA

TRANSMIT THIS FORM WITH FEE(S)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

re application of:) Examiner: Thornton, Krisanne Marie
Terrence R. GREEN et al.)) Art Unit: 1744
Application Serial No. 09/585,911)) Attorney's Docket No. 25658-3207
Filed: June 2, 2000)) Customer No. 25213
For: **METHODS AND DEVICES FOR**)
PROVIDING ANTI-INFECTIVE)
ACTIVITY TO A MEDICAL DEVICE)

EXPRESS MAIL LABEL NO. EL 976 542 831 US
Date Mailed: JUNE 9, 2004

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)

Mail Stop: Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

Applicants hereby request reconsideration of the Patent Term Adjustment (PTA) accorded to the above-referenced patent. In the Notice of Allowance, the *Determination of Patent Term Adjustment under 35 U.S.C. 154(b)* (copy enclosed) states that the PTA is "565" days. Applicants hereby request reconsideration of the PTA calculation and authorize the Office to charge deposit account no. 08-1641 in the amount of \$200.00 for the PTA adjustment request as set forth in 37 C.F.R. § 1.18(e).

REMARKS

According to the U.S. Patent and Trademark Office (PTO), the total PTA for the above-referenced patent based on the Applicants' Delay and PTO Delay, was **565** days. Applicants respectfully submit that, as described in detail below, the correct total PTA for this patent is **606** days. Applicants are also in disagreement with the Applicants' Delay of **139** days, as indicated in the PAIR/PALM system. Applicants believe that the Applicants' Delay should be **98** days. A review of the Patent Term Adjustment (PTA) in the PAIR/PALM system shows that the U.S. Patent and Trademark Office (PTO) calculated the Patent Term Adjustment as follows:

A *Notice to File Missing Parts of Nonprovisional Application* was mailed on August 15, 2000. Applicants sent a response with a Petition for an Extension of Time of four months, with the petition fee, on February 15, 2001 by first class mail (copy enclosed). The PTO sent a return postcard with a date stamp of February 20, 2001 acknowledging receipt of the

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Applicants' response and petition (copy enclosed). The records in the PAIR/PALM system reflect the entry of "Application is Now Complete" on March 3, 2001. Applicants believe that the Applicants' delay clock started on December 15, 2000 and stopped with the PTO's receipt of the Applicants' response on February 20, 2001, incurring an APPL delay of **67** days. Applicants are in disagreement with the PAIR/PALM system calculations according to which the PTO calculates an Applicants' delay of **108** days.

A *Non-Final Office Action* was mailed on June 19, 2003 regarding the submission of Claims 1-39. Under 35 U.S.C. 154(b)(1)(A)(i)(I), the PTO was to issue the first *Non-Final Office Action* by August 2, 2001. Thus, the PTO Delay of **686** days, as reflected in the PAIR/PALM system is correct and Applicants are in agreement with this calculation. Applicants sent a response to the *Office Action* by express mail on October 20, 2003. Thus, the APPL delay of **31** days, as reflected in the PAIR/PALM system is correct and Applicants are in agreement with this calculation.

A *Determination of Patent Term Adjustment under 35 U.S.C. 154(b)* and a *Notice of Allowance* was mailed on March 9, 2004. Applicants are in agreement with the PTO delay of **18** days, as reflected in the PAIR/PALM system with the entry of "Mail Notice of Allowance". The Patent Term Adjustment to date at that time was 565 days.

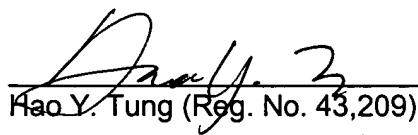
Therefore, Applicants respectfully submit that, instead, this patent is entitled to a total PTA of **606** days (the PTO Delay of 704 days minus the Applicants' Delay of 98 days) and request adjustment accordingly.

Additionally, Applicants do not believe the \$200.00 charge for reconsideration of the PTA should be charged to the Applicants, as the error was made on the part of the PTO. However, any additional fees that may be due in connection with this application may be charged to Deposit Account No. **08-1641** (Attorney's Docket No. **25658-3207**). Should there be any questions, please contact the undersigned at the correspondence address listed below.

Respectfully submitted,

Date: June 9, 2004

By:


Hao Y. Tung (Reg. No. 43,209)

HELLER, EHRMAN, WHITE & McAULIFFE LLP
275 Middlefield Road
Menlo Park, California 94025-3506
Telephone: (650) 324-7000
Facsimile: (650) 324-0638

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/585,911	06/02/2000	Terrence R. Green	25658-0003	6827

7590 03/09/2004

~~REMARKS SECTION MAX~~
HELLER EHRMAN WHITE & MCAULIFFE
4350 LA JOLLA VILLAGE DRIVE, 7TH FLOOR
SAN DIEGO, CA 92122-1246275 Middlefield Road
Menlo Park, CA 94025-3506

EXAMINER

THORNTON, KRISANNE MARIE

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 03/09/2004

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)

(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 565 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 565 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) system (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (703) 305-1383. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.